

01-02-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #73

Attorney Docket No. TH USA OP76

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**Certificate of Mailing:**

I hereby certify that this correspondence, and all the papers referenced herein, is being deposited with the United States Postal Services as first class mail in an envelope addressed to: Commissioner for Trademarks, Box TTAB NO FEE, 2900 Crystal Drive, Arlington, VA 22202-3513, on this date Dec. 31, 2002.

  
Mary L. Grieco

12/31/02  
Date

In the matter of Application Serial No. 76/579,612  
For the Mark TUMMIES  
Published in the Official Gazette on November 28, 2000

-----X  
TOMMY HILFIGER LICENSING, INC.

Opposer,

v.

KODUA MICHELLE BENNETT.

Applicant.  
-----X

Opposition No. 122,795

**OPPOSER'S MOTION FOR ENTRY OF DEFAULT JUDGMENT**

Opposer, Tommy Hilfiger Licensing, Inc. ("Opposer"), hereby moves for entry of default judgment against Applicant Kodua Michelle Bennett. ("Applicant"), pursuant to 37 C.F.R. § 2.106(a) and Rules 55(a) and 55(b) of the Federal Rules of Civil Procedure based upon Applicant's failure to file an Answer to the Notice of Opposition within the allotted time.

**I. FACTUAL BACKGROUND**

On February 26, 2001, Opposer filed a Notice of Opposition, and on April 4, 2001, the Trademark Trial and Appeal Board ("TTAB") mailed its scheduling notice to the parties. On July 4, 2001, Applicant applied for an Extension to File an Answer to the Notice of Opposition. On July 15, 2001 the TTAB granted Applicant an extension until August 8, 2001 to file an Answer in this matter.

Well over one year after the Answer was due in this matter, there is still no Answer filed by

Applicant. Default judgment is therefore warranted.

## **II. DEFAULT SHOULD BE ENTERED AGAINST APPLICANT**

37 CFR § 2.106(a) provides: "If no answer is filed within the time set, the opposition may be decided as in case of default." See also, Rules 55(a) and 55(b) of the Federal Rules of Civil Procedure.

In this case, Applicant's Answer was due on August 8, 2001, over one year ago. Opposer's counsel has not received any communication, written or oral, from Applicant or Applicant's counsel. (See, Grieco Dec. ¶ 3).

## **III. CONCLUSION**

Because Applicant has not filed an Answer within the time set, Opposer respectfully requests that Default Judgment be entered against Applicant.

Dated: New York, New York  
December 31, 2002

GURSKY & EDERER, LLP

By: 

Mary L. Grieco, Esq.  
1350 Broadway, 11<sup>th</sup> Floor  
New York, New York 10018  
(212) 904-1234  
*Attorneys for Opposer*

### **DECLARATION OF MARY L. GRIECO**

Mary L. Grieco, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18, United States Code, states:

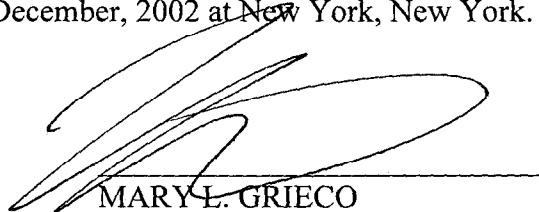
1. I am an attorney, admitted to practice law in the States of New York and California and in Washington, D.C. I am an attorney at the firm of Gursky & Ederer, attorneys for Opposer Tommy Hilfiger Licensing, Inc. ("Opposer"). I make this Declaration in support of Opposer's Motion for Entry of Default Judgment.

2. On February 26, 2001, Opposer filed a Notice of Opposition, and on April 4, 2001, the Trademark Trial and Appeal Board ("TTAB") mailed its scheduling notice to the parties. On July 4, 2001, Applicant applied for an Extension to file an Answer to the Notice of Opposition. On July 15, 2001, the TTAB granted the extension and provided Applicant until August 8, 2001 to file an Answer in this matter.

3. Despite the fact that Applicant's Answer was due well over a year ago, neither I nor anyone at my firm has received any communication, written or oral, from Applicant or Applicant's counsel.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and based upon my personal knowledge, except those matters stated on information and belief, and as to those matters, I am informed and believe them to be true.

Executed on this 31st day of December, 2002 at New York, New York.



MARY L. GRIECO

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, December 31, 2002, a true and correct copy of the foregoing document, entitled

**OPPOSER'S MOTION FOR ENTRY OF DEFAULT JUDGMENT**

was served upon Applicant by prepaid, first class U.S. mail, addressed as follows:

Kodua Michelle Bennett  
10153 Riverside Drive  
Toluca Lake, CA 91602



MARY L. GRIECO

TTAB

**GURSKY & EDERER**  
ATTORNEYS AT LAW

01-02-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #73

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COLORADO AND ONTARIO

December 31, 2002

BOX: TTAB - NO FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Re:    Applicant                :    **KODUA MICHELLE BENNETT**  
      Opposer                 :    **TOMMY HILFIGER LICENSING, INC.,**  
      Mark                    :    **TUMMIES**  
      Serial No.               :    **76/579,612**  
      Attorney Docket        :    **TH USA OP076**

Dear Sir:

We are enclosing herewith the following documents in connection with the above-identified Opposition.

- (X) An Opposer's Motion for Entry of Default Judgment (In Triplicate);
- (X) Certificate of Mailing and
- (X) An Acknowledgment Postcard.

Please acknowledge receipt by date stamping the enclosed postcard.

Respectfully yours,

**GURSKY & EDERER, LLP**

By:

Mary-L. Grieco

MLG:yio  
Encl.